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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/520,293 | 12/30/2004 | Akihiro Kitagawa | 04703/0202274-USO | 9686 |
| 7278 | 7590 | 09/18/2007 | | |
| DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770 | | | EXAMINER TRAN LIEN, THUY | |
| | | | ART UNIT 1761 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,293

Applicant(s)

KITAGAWA ET AL.

Examiner

Lien T. Tran

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1: Line 3, the phrase " the external surface" does not have antecedent basis. Line 8, it is not clear what the A-1 in parentheses mean; what does applicant intend by it? Line 9, does applicant mean for the density unit to be g/ml instead of ml/g?

Claim 2 has the same problem as claim 1 with respect to the recitation of " (A-2)" and the density unit.

Claims 3-4 have the same problem as claim 2.

Claim 7 has the same problem as claim 1.

In claim 8, what does applicant intend by " (p)"?

Claim 9 has the same problem as claim 2 with respect to the recitation of " (a-3)".

Claim 10 has the same problem as claim 9.

Claim 11 is vague and indefinite; it is not clear what applicant intends by it. It is not seen how claim 11 further limits claim 7 because claim 7 already contains limitation on the inhibitor.

Claim 13 has the same problem as claim 8 with respect to the recitation of " (b)".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,3,5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki et al in view of Caton, Meister, the article " Making the Most of Maltodextrin by Kunts" and applicant's admission of prior art.

Miki et al disclose a method for preparing a spring roll and a resulting spring roll product. The method comprises the steps of coating ingredient material over a wrap dough sheet, placing a filling on the dough sheet and rolling up the filling and ingredient material into a spring roll. The ingredient material includes polysaccharides and grain powders. Examples of polysaccharides include modified starch, processed starch such as heat-moisture treated starch and other starch product. Oil and fats may be contained in the food material containing the polysaccharides and powders. The ingredient material is coated onto the front and back surfaces of the dough sheet. The ingredient material also contains additives such as viscosity increasing agent in amount of not more than 10 wt%. The ingredient material is applied by spraying, brushing or with the aid of a roll or a sieve. The spring roll can be refrigerated or frozen before frying. The use of the ingredient material enables the product to maintain the crispy

mouth feel touch after lapse of several hours after frying. (see col. 1 lines 35-40, columns 3-4.

Miki et al do not disclose the starch is a starch hydrolysate having the density as claimed, the amounts of the powders and starch hydrolyzate and and steaming the roll.

The article by Kuntz teaches that maltodextrins are hydrolyzed starch products that are useful as secondary film-formers when used in combination with starches and gums. They are used as coating for candies or on pizza crust where act as a moisture barrier between the crust and the sauce to resist moisture migration. (see page)

Caton discloses method of making starch hydrolyzate product such as maltodextrin having increased bulk density. Caton also discloses the product has increased rate of solution compared to lower density product, dissolves without leaving scum. (see col. 3)

Meister discloses a composition containing maltodextrin. Meister shows that maltodextrin comes in different densities and the density affects the properties of the product. (see column 3 line 60 through col. 4 line 20)

Applicant discloses on page 7 that the process of making high density starch hydrolyzate is known as shown in JP 60-12399-b.

Spring roll is a dumpling because it is a product having a filling wrapped in a dough sheet. Miki et al teach other starch product can be used. It would have been obvious to one skilled in the art to use starch hydrolysate product such as maltodextrin disclosed in the article by Kuntz to enhance the objective of Miki et al because maltodextrin functions as a moisture barrier to prevent moisture migration. As shown by

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Caton, Meister and applicant's admission of prior art, maltodextrins are available or can be made to have different densities and the density gives different property to the products. Thus, it would have been obvious to one skilled in the art to select maltodextrin of any specific density depending on the properties wanted. It would have been obvious to one skilled in the art to select maltodextrin or to make the maltodextrin to have a density which will give the most optimum barrier property to the product to obtain product having optimum crispness. Such parameter is a result-effective variable which can be determined by one skilled in the art through routine experimentation. It would also have been within the skill of one in the art to determine the proper amount to obtain optimum barrier property. It would have been obvious to use the ingredient material of Miki et al on other dumpling product including one obtained by first steaming such as gyoza, or wonton to obtain the benefit disclosed by Miki et al.

Claims 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki et al in view of Caton, Meister, the article " Making the Most of Maltodextrin by Kunts" and applicant's admission of prior art as applied to claims 1,3,5-13 above, and further in view of Haverkos et al.

None of the reference discloses adding dextrin.

Haverkos et al disclose a coating composition for foods. They teach to add maltose-free dextrin to the composition to promote the desirable crispiness in the final cooked product without greatly increasing the caramelization or excessive browning. The dextrin enhances the shell-like texture to lock in the moisture, flavor and heat and thus to extend the heat lamp holding time. (see col. 3 lines 10-21)

It would have been obvious to one skilled in the art to add dextrin to the ingredient material in Miki et al to obtain the benefits disclosed by Haverkos et al. It would have been within the skill of one in the art to determine the proper amount through routine experimentation.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Terazaki et al disclose Chinese snacks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hendricks Keith can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


LIEN TRAN
PRIMARY EXAMINER
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9/12/07